App. IX-4

Previous References

193 .
(Mysore)

File No. 245-36

Serial Nos. 1—4

Letter References.

Mysore 1859-37 (3-5)
" Dept 254-37 Mysore
" 345-3 305-38
" 102-
" 236-38

GENERAL AND REVENUE SECRETARIAT.

rial Nos. 4

Part B for October 3)

SUBJECT.

Appeal re the right of reading Khutba & or Sermon at Idga in Sira Town & of performing daily Namaz and reading Sermons on Fridays at the Masjid.

Mr Abdul Gaffar Sheriff — Sira.

8/4.

No. 545 of 13-10-37.

WD 0418—GPB—22,500—29-8-36

Rejecting the appeal petn as there is no reason to interfere with the Mysore Commr's order.

To Mysore
No 550 of 13th Oct 37

G. R S. APP. F. III—1] 193 6-7

GENERAL AND REVENUE SECRETARIAT.

(Muz)

NOTES.

File No.

FILE HEADING

Appeal re: The right of reading "Khutba" or Sermon at Idga in Sira Town & of performing daily Namaz and of reading Sermon on Fridays at the Masjid.

FROM

Aboul Gaffar Sheikh - Khaji of Sira

No. — Dated 4-5-37 Received 7-5-37

Diary No. 1169 Enclos. 2 Spare copies — Serial No. 1

BRIEF ABSTRACT OF LETTER

Appeals against the order of the Muzrai Commissioner dismissing the Case filed by his Court against the order of the Deputy Commissioner - Question is whether according to the Appellant the right of reading Khutba at Idga in Sira Town and holding that the right of performing daily Namaz and of reading Sermon on Fridays at the Masjid belongs to the respondent..

NOTES AND ORDERS.

The question is

one of fact

Muzrai Case

Memo of appeal

filed for Govt

NOTES—First She

WD 0245—GPB—2,500—23-8-32

File No Misc 245 of 1936. | General and Secretariat

To The Muz Comr

No 11696 of 14-5-37)

Forwards the petn in dl for submission of entire records connected with the appeal.

Letter no Addl 25/35-36 of 16-8-1937 from the Muzrai Commissioner submitting records connected with the appeal filed by Abdul Gaffoor Sheriff, Khaji of Sira in regard to his right of offering namaz and reading the Sermon in the two Muzrai institutions viz the Jumma Masjida and Edga in Sira town.

The appellant in para 9 of the memo says that the Jumma Masjid and the Edga in Sira town are Muz. Insts. The former is a Muz Inst. as it is endowed with land grant. (Vide pages 42-43 - Sl no 8 of the Inam Register of lands endowed to Certain Insts of Sira Tk) & the latter is not borne on any records to be a Muz. Inst as no land grant or Cash grant is given for the support of the same. The pet. Contends that he has a right to perform Services in both the Insts as he is a regd Tax Khaji. The facts of the Case are fully set forth in Muz Case no 211 of 1934-35 before the D.C. Tumkur; the then D.C. Mr. Abdul Khadir after fully going into the Case has passed an order on 26.2.36 negativing the claim of the Khaji (appellant now before us) to perform the Namaz at the Edga.

Appeal — the Appellant and Khaja Nazamuddin a right to read Sermon at Edga & perform Namaz as the Masjid

General and Revenue Secretariat | File No. Mis 2 | of 1936. | [App. F. III—2

Serial No.

ordered that the Khaja should not be allowed the Peish Imam conducting the Namaz" and reading the Khutba at the Masjid. Against this order an appeal lay before the M.C. who after hearing the Counsels of both the parties held that the D.C's decision is correct and dismissed the appeal.

6 This order is invited to Para 553 of the revised Mys. Manual (Chapter XI) from which it is clear that Peish Imam does religious Service, & that Khaja is meant for Civil Service such as performance of Nikah Ceremonies, and Divorce Ceremonies; he decides religious doubts & questions and does duties relating to funeral Ceremonies; he is also to Suba or duties connected Slaughtering of Sheep. For this Service Khaja is allowed a Cash Grant of Rs 6/12 per annum. In view of this whether the appellant is entitled is a matter for consideration ~~[illegible]~~, the duties of Peish Imam being different from those of a Khaja [illegible] the D.C. ~~[illegible]~~ 6th Dec. 1935 [illegible]

NOTE—Contn. Sheet.

W D 0417—GPP—3(

4) Appeal —— Appellant's claim right to read Namaz at Edga ——— perform Namaz at the Idgah.

Mis. File No. 245. of 1936.

General and Revenue Secretariat

Seria No.

people who recognize the Hazi's right to lead the namaz at the Idga to go there for prayers. People who do not agree to this are asked to go to some other mosque for prayers. The Dy. Comr.'s order of 26th July. 1936 does not dispute the contention of this order. The Judgment of 23rd January 1936 also seems to support this view. ~~Substantiate~~ The ~~persecutors~~ appellants right to perform Namaz at ~~the~~ the Idga is based on these documents: 27-9-7 the Dy. Comr.'s order of 26th July. 1936 and the Sub-Divl Magistrate's order of 6th July. 1937 do not concede the right. The appellant states that the 1st. Magistrate's order of 6th Dec. 1884 leaves no room for doubt as regards his claim. (Vide para 4 of the appeal petition). Submitted for order.

8 The Dy. Comr's order dated 17.9.37 explains clearly the grounds as to why the appellants' contention could not be conceded

9) The appellant relies on his Khasra Jamabandi of 1911 D.O.: Marked 'A'

Khaja claiming a right to read Sermon at the Edga & performing Namaz in his masjid.

17

eneral and Revenue Secretariat — File No. 243 of 193 6 — [App. F. III—2

Serial No.

ary

order of 1st. As regards the former, it has been explained that Mr Khaja has entitled to the allowance & consequently the duties enumerated on page 500 Mussalmi Manual & that religious service is the duty of the Deputy Imam.

y

(10) The Mr Magistrates order of 1st which was passed merely to prevent a breach of the peace directed that those who forced the restriction which may be made by the Daroga & peaceful Namaz there & that the others should go to their other Masjids & should not create a breach of the peace.

(11) Thus the two main grounds relied by the appellants do not support him. The appeal may perhaps be rejected. If necessary giving a warning to the parties

Yes 17/9

Gen Sec

GENERAL SECRETARY
17 SEP. 1937
1747

NOTE—Contn. Sheet.

WD 0417—GPB—80,000—S 9-36.

File No. 245 of 1936. | General and Secretariat

Serial No.

neither of the orders (Dc's a Mc's) seems to refer to any instructions in the Musse Manual in the matter. Will the Asst Secy please note on the requests of the petitioners from the public view any instructions in this behalf in the Musr. Manual?

Ind
24/4/37

(13) The Museum under reference is a Muslim institution and the Mutawalli is provided Devandaya (cash) grant. The Museum authorities have therefore the right of interfering with the services performed in the Museum under the Muslim Institution Regulations.

(14) The question in this case is as to who should lead the prayers the Mutawalli on one side & the petitioners on the other - both being appointees of the Museum authorities. The worshippers resorting to Mahomedan institutions like the Museum - which they are invited and admitted as per rules 551 to 560 of the Musrai Manual

Appellant (a Khoja) claiming right to read Sermon at Eidga & perform Namaz at the Masjid.

General and Revenue Secretariat — File No. 245 of 1936 — [App. F III–2

Serial No.

According to these instructions the Khoja is meant for Communal service which the petitioner is expected to render religious service i.e. he has to read out the Namazkhuns at the head of the gathering & officiate the prayers (6 ans 55 33). The khoja was originally a judicial officer & with the establishment of Courts this duty has ceased & he has other functions assigned as page 530.

15) Thus having regard to the nature of the service, it has to be attended to by the petitioner in accordance with the instructions in the Manual

Can 3.7.37

Govt. Leader 16 for perusal.

17) The appeal may be rejected. It does not seem next to hear parties

First Member. JPR 7/10

GENERAL SECRETARY. 30 SEP. 1937 1924

OFFICE OF THE FIRST MEMBER OF COUNCIL OCT 7 1937 (961)

NOTE—Contn. Sheet.

File No. 245 of 1936

General Secr

Serial No. 4

Dfr. Ackd

Dfr Ackd 3/11

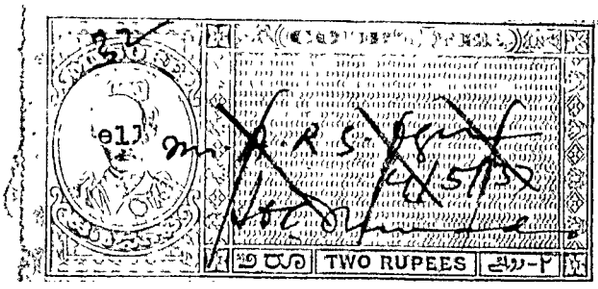
3/10

No 549 of 13.10.37 to the Abdul Gaffar Sheriff Office intimating that Govt See no reason to interfere with the orders of the Muzrai Commissioner in the matter referred to therein and his appeal petition is rejected.

Memo no 5350 of 13.10.37 to the Muzrai Commissioner forwarding copy of the above endorsement for his information.

B 25/10/37

Dfr 25/10



Before the Government of His Highness The

Maharaja of Mysore at Bangalore.

Muz Appeal No. of 36-37.

Abdul Gaffoor Sheriff

Khaji of Sira ... Appellant.

-VS-

Abdul Rahiman, son of)
Budan Sab, Retired School) ... Respondent.
Master at Sira.)

@@@@@@@@

Appeal against the order of the Muzrai Commissioner in Mysore in Muz appeal No 25/35-36 dated 6-2-1937 affirming that of the Deputy Commissioner Tumkur District in Muzrai case No. 2113/34=35 in the matter of the right of offering Namaz and reading the sermon at the Jumma Masjid and Edga, in Sira Town. The appellant begs to state as follows:-

1. The appellant and his predecessors in title had been the hereditary Khajis of the Sira Town, wherein are situate two Muzrai religious Institutions styled the Edga and The Jumma Masjid. In these two institutions the right of offering Namaz and reading the sermon belonged exclusively

to the Khaji and therefore to the appellant who has been excercising that right from time immemorial in the manner in which his predecessors in office had been doing it. In the year 1934 the respondent with the help of a few of his unruly followers -- attempted to invade the aforesaid right belonging to the appellant whereupon on an application made by the appellant the authorities gave him the necessary protection and the appellant was able to do his duties and to exercise his rights as before. Again in the year 1935 when there was a similar trouble the then Amildar Mr. S.N. Srinivasa Rao, who held an exhaustive enquiry into the matter gave a finding that the appellant and the appellant alone was entitled to perform the aforesaid services both at the Jumma Musjid and as well as at the Edga. Laterom when the respondent in the face of the finding given by Mr. S.N. Srinivasa Rao again attempted ~~to secure~~ a disturbance of the public peace, there was another enquiry at the instance of the Sub Division Officer in which ~~the~~ in addition to the appellant it was held that the respondent also had a right to offer namaz in the institution. As this order was violently opposed to the result of a previous enquiry which had been validly held the appellant preferred an appeal to the Deputy Commissioner Tumkur Dist. That appeal was rejected by the learned Deputy Commissioner and against that order the appellant again appealed to the Muzrai Commissioner who without giving any reasons for his order summarily disposed of the appeal by merely observing that the Deputy Commissioner's order was correct. The appellant has therefore preferred ~~x~~ the the appeal in this Hon'ble Court.

2. The appellant begs to submit that there is and can be no dispute that he is the registered Khaji of the two institutions and the result of the enquiry that was held on a former occasion by Mr. Srinivasa Rao, is conclusive and binding upon the parties. There was no occasion for reopening the matter and the finding of Mr. Srinivasa Rao, who was competant to go into this question obviouslyoperated as res-judicata.

3. Even as early as in the year 1818 the sannad which has been granted by His Highness Sri Krishna - rajendra Wadeyar Bahadur clearly establishes the appellants contention and both the lower courts have failed to notice that in the face of this document the respondent has no case whatsoever.

4. Again in the year 1884 by an order of the District Magistrate dated 6-12-1884 the rights of the appellant which are now the subject matter of this appeal have been fully upheld and leaves no doubt ~~room~~ whatsoever in regard to that matter. That document which has been produced in these proceedings has been altogeth er mis-interpreted by the learned Deputy Commissioner.

5. The Religious and Charitable Endowments Regulation read along with the principles of Mohammadan law applicable in regard to such institutions does not admit of the respondent or any other person claiming the rights which the appellant claims to possess in the matter of these institutions.

6. Both the lower courts should have taken into consideration the fact that the services in question have been performed by nobody but the appellant and his

.is predecessors in office from time ~~im~~-
.mmemorial if any one else such as the
'esponden~~t~~, had ~~no~~ any such rights it is
.nconceivable that these rights were not
.sserted or exercised until today

7. The learned Deputy Commissioner
)rred in assuming that there was a
'esolution in the year 1932 by which the
.ppellant's rights were undermined.
lo such resolution was produced before the
.earned Deputy Commissioner and there is
.o evidence that the appellant was a party
;o that resolution. The appellant has
.nd had no knowledge of any such resolution
.nd that resolution was not produced before
the enquiry which was held on a former
)ccasion. The appellant begs to submit
that ~~although~~ he applied to the learned
Revenue
~~Deputy~~ Commissioner to send for the records
relating to the alleged resolution in order
to determine whether the resolution was
genuine and not a make believe.

8. The learned ~~Deputy~~ Revenue Commissioner
declined to send for the original records
but has erroneously relied on it.

9. Both the lower courts failed to
notice that the respondent has produced
no documents of any kind in support of
his

his claim while on the contrary the appellant has in his possession and has produced into court unimpeachable documents which are conclusive on the point.

10. The learned Deputy Commissioner has entirely misconceived the scope of the appeal before him. The appellant does not and did not contend that in all religious matters he had a right to impose his personal views, upon all the members of the Mahamedan community. But he does contend very respectfully before the Hon'ble Court that in so far as the service to be performed in the two institutions in question are concerned he alone has the right to perform these services for the simple reason that he as the registered Khaji appointed by the Government and the institutions are Muzrai institutions.

11. The appellant begs to submit that the orders of the two lower courts are opposed to the Muzrai law, public policy and to natural justice.

12. He prays that his appeal may kindly be allowed and his rights might kindly be recognized by this Hon'ble Court.

Adv for Appellant

4.5.1937

OFFICE OF THE MUZRAI COMMISSIONER No 9254 15 MAY 1937

1496/Muz 245-36-2 & 16 5-37.

Forwarded with Compliments to the Muzrai Commissioner in Mysore for favour of Records in the entire records connected with the Appeal

By order

Mir Jafar Imam

For General Secretary

Appp. 25/35-36.

Forwarded with Compliments to the Revenue Commissioner Tumkur. and this for favour of submitting the service records connected with the case noted.

M. N. Bramhaiah
12.6.37.
for Mysore Commissioner

11/6/37 dd 12/6.

Memo

Forwarded to the Madhugiri Sub Asst for immediate submission of Connected with a detailed report.

These records not be delayed in any.

for dy Comm
16/6/37

Memo

Forwarded to the Amildar Sira for Sub mission of the Connected

14

Sira TNC 45 (file) 15/6
36-37

RP. 05 Sera
7-7-37

IN THE HIGH COURT OF MYSORE.

Before the Govt of His Highness the Maharaja of Mysore at Bangalore

Misc Appeal NO OF 1936-1937

Appellant-		Respondent
Abdul Gaffoor Sheriff Khan	VS.	Abdul Rahman

I the appellant above named, do hereby nominate and appoint **Mr. A. R. Somanath Iyer B.A., LL B., Advocate** in the above suit and do hereby empower the said **Advocate** to appear for and on my behalf in the above suit, to take all steps which may be necessary on my behalf arising out of or in connection with the above suit either during progress or after its decision, to sign and subscribe their names to any document which they may deem proper, to execute any decree that may be passed in my favour and to receive out of the court any refund of money which may be lodged or become payable or receiveable on my behalf and on receipt thereof to grant receipt or other sufficient discharges for the same, to withdraw, compromise or refer to arbitration the said suit, to appoint one or more substitutes and to act and perform all other matters and things relating thereto or connected therewith, to represent me in matters relating to the same and to act as fully and effectually to all intents and purposes as I might do if personally present and did the same. And I do hereby agree to pay all fees, costs, charges and expenses which may be incurred and to allow, ratify, confirm whatsoever the said **Advocate** shall lawfully do or cause or procure to be done by the virtue of these presents

In witness whereof I have hereunto set my hand this 23rd day of April 1937

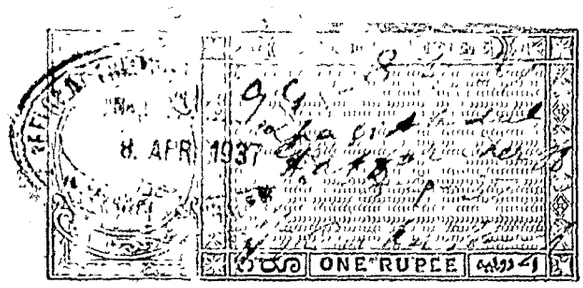
ACCEPTED

(عبدالغفور شریف)

sd/- [illegible]

Advocate for Appellant

Signed before me by the executant who known to me.



In the Court of the Huzrai Commissioner
in Mysore, Bangalore.

Huzrai Appeal No. 25/35-36

Appellant: —
Abdul Gabboor Sheriff.
Khaji of Sira.

vs

Respondent: —
Abdul Rahiman Son
of Budan Sab,
Retired School master
at Sira.

Subject.

Appeal against the order of the Deputy Commissioner, Tumkur District, conceding to the appellant, the right of reading "Khutba" or Sermon at Idga and holding that the right of performing daily Namaz and of reading Sermon on Fridays at the Masjid belongs to the respondent

Facts of the Case.

There have been disputes between the appellant and the respondent for some years past regarding the performance of Namaz and of reading Khutba at the Jumma Masjid and at Idga at Sira, the Mahomedans of Sira siding one party or the other.

A public meeting of the Mahomedans of Sira was held on 7-12-1932 and the duties of the Khaji and the Pesh Imam were defined in the resolution

passed at the meeting. According to this, the Pesh Imam should do namaz daily in the Masjid and occasionally on festive occasions, at the Idga and should read Khutba every Friday in the Masjid after the Namaz and should also read Nikakhane at every marriage. The duties of the Khaji are to read Sermon at the Idga during festive occasions, to keep the Nika Register and to give it to Pesh Imam when required and also, to help the Pesh Imam in times of need. The appellant also was a party to this resolution.

During Ramzan of 1934, there was apprehension of the breach of peace on account of these disputes and this was prevented by the Amildar with the help of the ~~Police~~ Police. There was also trouble on Bakrid Day, Viz., 6th March 1935 when the Khaji and his followers left the Idga and performed the namaz at the Chikka Masjid. The Amildar, Mr. S. N. Srinivasa Rau, held an enquiry in the matter and reported that the appellant, as Khaji ~~appointed~~ appointed by Government, should alone perform these services at the Masjid and the Idga.

8. APR. 1937

During Ramzan of 1935, the appellant sought the Police help, as he apprehended trouble

from the respondent and his party. The Police investigated the case and sent a report in favour of the respondent. The Amildar, Mr. Siddanajappa made a formal enquiry and examined witnesses on both sides and sent a report in favour of the respondent. He also issued an endorsement to both the parties in terms of his findings. But the Sub Division Officer, before receiving the report of Mr. Siddanajappa passed order on the report of Mr. S.N. Srinivasa Rau, conceding the right of reading Sermon at the Masjid also, to the appellant and also holding that the right of Namaz is vested in the Pesh Imam, as sanctioned by religious usage. An appeal was preferred against this order to the Deputy Commissioner, who passed the above order. Hence the appeal.

The Contention of the appellant is that he, as a registered Khaji, has got a right to do these services both at the Jumma Masjid and at the Idga and the respondent is one appointed by him and has no hereditary 'hak' in these matters. He has produced a Copy of the sanad granted by His Late Highness Sri Krishnarajendra Wodeyar Bahadur to the Khaji of Sira in 1818 and also a Copy of the order of the District Magistrate dated 6th December 1884.

(Continued on next page

6 APR 1931

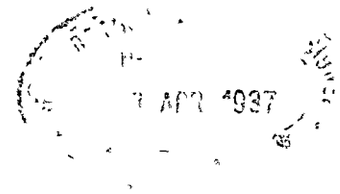
Order ~~Appeal~~ No 26 Dated, 6-2-1937.
35-36

I have heard the Advocates for the appellant and the respondent. The Deputy Commissioner's order which contains a full statement of the reasons for his decision, appears to me to be quite correct. I dismiss the appeal.

Sd/-. K.V. Anantaraman.
Huzrai Commissioner.

"Copy"
Manager

Copy applied by. Khaja Abdul Gaffoor Sahib
Copy application received on 3-4-1937.
Copy granted on
No. of words. 610
Copying fee: 0-14-0
Comparing fee: 0-3-6
paper cost.
Copied by: W. Gopinath.
Compared by Venkataramaiah



GENL & REV. SECT. 172 17 AUG. 1937

Appl 25 - Encl 2 files
35-36

OFFICE OF THE MUZRAI COMMISSION IN MY

Bangalore, 14th August 1937 193

16

FROM

K. V. ANANTARAMAN, ESQ., B.A.,
Muzrai Commissioner in Mysore

Mg 245-36-3

To

GENERAL SECRETARY 16 AUG. 1937

M. Venkatesa Iyengar, Esq., M.A.
Secretary to the Government of His Highness the Maharaja of Mysore,
..... General .....*Department.*

SIR,

Appeal petition of Abdul Gaffoor Sheriff re: the right of offering Namaz and reading the sermon at the Jumma Masjid and Edga at Sira.

Wtih reference to your Memo No.1496/Muz.245-36-2 dated 14-8-19 calling for the entire records re: the above, I have the honour to forward herewith the Vernacular records received with Tumkur District Deputy Commissioner's Memo No.M.3807/36-37 dated 26-7-1937 as also this office file No.Appeal 25/35-36 dated 6-2-1937 and to state that the facts of the case are fully set forth in the preamble portion of this office order contained in the enclosed records.

2. The appeal petition received with your Memo under advertan is returned herewith.

I have the honour to be,

Sir,

Your most obedient servant,

Muzrai Commissioner.

Government of His Highness the Maharaja of Mysore,

General and Revenue Secretariat,

Dated, Camp Mysore, the 10th October 1937.

5'49
Mg245-36-4

1305

ENDORSEMENT.

To

Mr.Abdul Gaffur Shoriff,
Khaji of Sira
C/O. Mr.A.K.Somanatha Iyer, B.A., LL.B.,
Advocate, Chickpet,
Bangalore City.

With reference to his petition dated 4th May 1927 appealing against the orders of the Muzrai Commissioner in the matter of his right to read "Khutba" at Idga and perform daily Namaz and read Sermon on Fridays at the Masjid in Sira Town, Mr.Abdul Gaffur Sheriff is informed that Government see no reason to interfere with the orders of the Muzrai Commissioner in the matter and his ~~application~~ appeal is rejected.

By Order,

for General Secretary to Govt.

F G—1]

ECT .....

.....

.....

Section Mucz.

File No. 245-36

Serial No. 4

Diary No. of letter replied to.....172.....

No. 5492

To

Mr Abdul Gaffar Sheriff

Khaji of Sira

C/o Mr A-R Somanathaiyer

BA BL.

Advocate Chickpet

Bangalore city.

Signed by .....

Mr S K Venkataramana

Dy

General and Revenue Secretariat

( )

the 193 .

Date of issue.....13-10-37.....

Letter regd to his petn dy 4.5.37 appealing against the order of the M.C. in the matter of his right to read "Khutba" at Idga and perform daily Namaz and read Sermon on Fridays at the Masjid in Sira Town, Mr Abdul Gaffar Sheriff is informed that Govt see no reason to interfere with the order of the M.C. in the matter and his appl is rejected.

B-O

st of enclosures.....

Copied by .....

Examined by.....

WD 0521—GPB—30,000—12 3-37

Orders of the A.S.C. See & issue

For Sec. See.

25